

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JOHN P. FITZGERALD, III,
Acting United States Trustee, et al.

Appellants,

v.

Civil Action No. 3:23cv01

ALFRED H. SIEGEL,
*Trustee of the Circuit City Stores, Inc.,
Liquidating Trust,*

Appellee.

ORDER

This matter comes before the Court on the Joint Motion of Appellant John P. Fitzgerald, III, and Appellee Alfred H. Siegel (collectively, the “Parties”) to Stay Proceedings (the “Joint Motion”). (ECF No. 12.) The Parties request a stay “pending a decision by the Fourth Circuit either on the merits or refusing to accept a direct appeal.” (ECF No. 12, at 2.)

The Supreme Court of the United States has recognized that “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). A court wishing to stay a case must “weigh competing interests and maintain an even balance.” *Id.* at 255 (citations omitted). Here, the Parties filed pursuant to 28 U.S.C. § 158(d)(2)(A) a joint certification of direct appeal to the United States Court of Appeals for the Fourth Circuit, but the proceedings in this Court are not automatically stayed while the case simultaneously pends in the appeals court. (ECF No. 12, at 5.) The Parties therefore assert that “absent a stay, two identical appeals will be proceeding

simultaneously in both this Court and in the Fourth Circuit” and “it would be a waste of this Court’s and the parties’ time and resources to have the same appeal briefed and argued” in both courts. (ECF No. 12, at 5.)

After due consideration and in the interests of judicial economy and efficiency, the Court GRANTS the Joint Motion to Stay. (ECF No. 12.) The Parties SHALL notify this Court within SEVEN DAYS of the Fourth Circuit’s decision to either accept or refuse a direct appeal on the merits of this action.

It is SO ORDERED.

Date: 3/7/2023
Richmond, Virginia


M. Hannah Lauck
United States District Judge